LAW OFFICES

GAVIN, COX, PUGH, GAVIN AND ETHERIDGE 119 WORTH STREET ASHEBORO, NORTH CAROLINA 27203

W. ED GAVIN RICHARD L. COX ALAN V. PUGH LEE W. GAVIN SCOTT C. ETHERIDGE TELEPHONE (336) 629-2600

FACSIMILE (336) 629-4734

September 8, 1998

Xavier McConnell, Esq. Enforcement Division Office of the General Counsel Federal Election Commission 999 E-Street NW Washington, D.C. 20463

By Fax: (202) 219-3923 and First Class Mail

Re: MUR - 4797 Sixth Congressional District Republican Party (N.C.)

and Collette Hoover, as Treasurer

MUR - 4798 Randolph County Republican Executive Committee and

Laverne A. Williams, as Treasurer

Dear Mr. McConnell:

Our office acts as counsel for Mrs. Collette Hoover, Treasurer of the Sixth Congressional District Republican Executive Committee (N.C.), and is currently counsel to the Randolph County Republican Executive Committee, and Mrs. Laverne A. Williams, Treasurer.

I have in hand a letter dated 28 August 1998, from Chairman Aikens to Mrs. Hoover stating there is reason to believe that the Sixth District Committee and Mrs. Hoover may have violated 2 U.S.C. \$441 a(f) and 11 C.F.R. \$102.5 (a) provisions of the Federal Campaign Act of 1971. I have a similar letter of same date to Mrs. Williams.

Mrs. Hoover and the Sixth Congressional District Executive Committee and Mrs. Williams and the Randolph County Republican Executive Committee hereby request in writing pursuant to 11 C.F.R. §111.18(d) pre-probable cause conciliation.

We will, of course, provide the information requested in Chairman Aikens letter and attachments and will cooperate fully and promptly with the Commission. Pursuant to my telephone conversation with you last week, it appears to me preliminarily that what has occurred in this matter is as follows:

1. The Randolph County Republican Executive Committee is a county political executive committee of a duly recognized political party under North Carolina law (N.C.G.S. §163.96). As such, it is registered and files the various statements and reports required under North Carolina law (N.C.G.S. §163-278.7 et seq.). The Randolph Committee is not a "political committee" as defined by 2 USCS §431(4) and (8)(A.)

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- 2. The Sixth Congressional District Republican Executive Committee is a district political executive committee of a duly recognized political party under North Carolina law (N.C.G.S. §163.96). As such, it is registered and files the various statements and reports required under North Carolina law. The Sixth District Committee is also a registered party committee under federal law because of its activity in supporting federal candidates, to wit: the incumbent Republican Congressman from the Sixth Congressional District.
- 3. In their activities in support of candidates for state and local office in North Carolina, neither the said county or district committee is restricted by North Carolina law on the amount of contributions they may receive or expend on behalf of the state and local candidates or the amount such committees may receive or expend on behalf of other such committees for the same purposes (N.C.G.S. \$163.278.13(e)).
- 4. During the 1996 election cycle, the Randolph County Republican Executive Committee determined that as part of its support activities for state and local Republican candidates, it would endeavor to support Republican candidates for the North Carolina House of Representatives across North Carolina in order to assist in maintaining a Republican majority in that body. (The then and current Speaker of the North Carolina House of Representatives is a state representative from Randolph County.)

In this effort the Randolph County Republican Executive Committee contributed money to various state house candidates' committees, county committees and district committees for the sole purpose of electing Republican candidates to the North Carolina House of Representatives. North Carolina law provides that county and district executive committees are exempt from any contribution or expenditure amount limitations in that regard.

5. During the course of the campaign, the Randolph County Republican Executive Committee determined in October, 1996, that it would assist State Representative Cary Allred, State Representative Dennis Reynolds, and candidate John Jordan who were running as the Republican candidates in State House District No. 25, which is centered in Alamance County.

The Randolph Committee also decided to assist State Representative John Cocklereece and State Representative Joanne Sharpe in their campaigns for reelection in State House District No. 89 located in Guilford County (Both Guilford County and Alamance County are located in the Sixth Congressional District of North Carolina.

Continental Communications, Inc. of Raleigh recommended that the Randolph Committee assist in paying for radio ads and mailings for these candidates. Since the Sixth District Committee's geographic area encompassed both state house districts and since the treasurer of the Sixth District Committee was a resident and worked in an office located in Randolph County, it was felt that this assistance could be provided most efficiently and quickly by contributing these funds directly to the Sixth District Committee and the Sixth District Committee could then pay for the ads and mailings in question.

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I want to emphasize at this point that the contribution to the Sixth District Committee by the Randolph County Committee in support of state and local candidates is unrestricted under North Carolina law as to the amount of contributions or expenditures. Moreover, such contributions directly to those state or local candidates by the Randolph County Committee would likewise have been unrestricted as to amount under North Carolina law.

- 6. Accordingly, the Randolph Committee wrote checks to the Sixth District Republican Executive Committee on October 15, 1996, for \$10,000.00 and on October 22, 1996, for \$9,850.00 and \$12,575.00 as a contribution to the Sixth District's effort to help elect those state candidates. (Copies of those checks and their endorsements are enclosed.) These checks were signed by the then Assistant Treasurer of the Randolph County Committee and delivered to Mrs. Hoover, the Treasurer of the Sixth District Committee.
- 7. The Sixth District Committee in turn expended \$10,000.00 for radio advertising on behalf of the above mentioned state legislative candidates on October 17, 1996, and \$22,376.00 for mailings for those same state legislative candidates on October 23, 1996. Of these sums, \$12,556.00 were paid to Advantage Mailing, L.L.C., for expenditures (noted on the invoice) for the 25th State House District race; \$9,820.80 to Advantage for the 89th State House District race. (Copies of these invoices are attached.)

These contributions and expenditures were made in accordance and are in compliance with North Carolina election laws. Again, these contributions and expenditures could legally have been made directly to or on behalf of those legislative candidates' committees by the Randolph Committee.

8. Based on our initial review of the F.E.C. "Factual and Legal Analysis," it appears to us on page three that there is some suggestion that either the Sixth District Committee, the Randolph Committee, or Mrs. Hoover was somehow unresponsive to the "RAD" inquiries in June and July of 1997.

On the contrary, Mrs. Hoover spoke on the telephone with RAD staff explaining the source and use of the funds. She sought and followed the advice of RAD staff in reporting the transactions in question and otherwise complying with the requirements of federal law. It is further suggested that Mrs. Hoover said she would contact the Randolph Committee's attorney (me) but failed to do so. Mrs. Hoover did in fact immediately contact me concerning the RAD inquires, and I assured her that I had responded on behalf of the Randolph Committee to similar inquires from RAD dated 23 May 1997, concerning the Buncombe County Republican Executive Committee and dated 20 June 1997, concerning the Sixth District Committee. I further advised Mrs. Hoover that in my responses dated 11 June 1997, and 7 July 1997, to both RAD inquires, I stated that the Randolph Committee had made no contributions in excess of \$1,000.00 for the purpose of influencing a federal election, and asked for statutory or regulatory clarification, and pledged full cooperation with RAD in every way. (Copies of that correspondence is also enclosed.) I heard nothing further from RAD.

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9. While further documentation may be required, we believe that these questions could have been avoided if the Sixth District's FEC report had clearly stated that the expenditures in question were for non-federal candidates.

It is my understanding that the Sixth District Committee maintained only one depository and checking account for contributions and expenditures. While the better practice and perhaps F.E.C. regulations require separate accounts to insure segregation of federal and state contributions, I can assure the Commission that the maintenance of one account was innocent and inadvertent. This should be obvious since the source and amount of the contributions and expenditures were reported in both the Sixth District reports (your file) and the Randolph County reports (enclosed). There was no attempt at non-disclosure or obfuscation. In addition, the incumbent Sixth District Congressman, Rep. Howard Coble, was unopposed in the 1996 general election so it is implausible that his federal campaign benefitted in any way.

Moreover, if segregation of monies is required by federal regulations, I assume the purpose is to insure that it can be clearly demonstrated that what may be a legal contribution under state law but illegal under federal law is not used to influence a federal election. In this instance, it is apparent that the contributions made by the Randolph Committee to the Sixth District were immediately used in toto as a contribution for the benefit of candidates for state office. The Randolph Committee reports have been thoroughly reviewed and examined by the North Carolina State Board of Elections. If you have any questions involving those reports or governing state law or regulations, I would encourage you to contract Mr. Gary O. Bartlett, Executive Secretary of the Board, at 133 Fayetteville Street Mall, Suite 100, Raleigh, North Carolina, 27601-1392. Mr. Bartlett's telephone number is (919) 733-7173 and his fax is (919) 715-0135.

Please excuse the length of this initial response, but I am confident that the evidence will demonstrate the factual basis of the narrative above. I wanted to let you know of our desire to respond quickly and completely to your inquiry. I assume it will be necessary for Mrs. Hoover and Mrs. Williams to complete the submitted interrogatories and will forward those responses shortly. You should know that Mrs. Williams did not become the Randolph County treasurer until 1998 after the death of David Hamilton who was the Randolph County treasurer during the period of time in question.

We will be back in touch shortly.

Very truly yours,

GAVIN, COX, PUGH, GAVIN and ETHERIDGE

Alan V. Pugh

AVP:asg Enclosure

REPORT OF EXPENDITURE

Line 12 () page __ 3 of ____

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DEPOSITED WITH

FIRST NATIONAL BANK

For Leth District Republican

ACCOUNT NO

Your deposit may not be available for immediate withdrawal consult your financial institution for further information.

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Checks:

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Total Received:

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To Checking # 0123862

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Will be posted on next business day.

All items are credited subject to payment.

THANK YOU FOR BANKING WITH FIRST NATIONAL BANK and TRUST COMPANY



6TH DISTRICT REPUBLICAN **EXECUTIVE COMMITTEE**

3309 LASSITER MILL RD. ASHEBORO, NC 27203

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SIGN HERE FOR CASH RECEIVED HE REQUIRED!

CASH Currency Coin 1357500 985000 Total From Other Side TOTAL 7242500 Less Cash Received NET DEPOSIT

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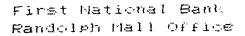
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Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement

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NOW YOU HAVE 24-HOUR ACCESS TO YOUR FIRST NATIONAL ACCOUNTS ON OUR FNB INFORMATION LINE. CALL 626-8301 OR 1-800-873-1172 OR YOUR LOCAL FNB OFFICE FOR MORE INFORMATION.

TAX IDENTIFICATION NUMBER 56-1675447 LAST STATEMENT 09/30/96 4,871.31
AVERAGE BALANCE 10,264.68 2 CREDITS 32,425.00
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Advantage Mailing, LLC

225 Hillsborough Street, Suite 255 Raleigh, NC 27603

DATE: 10/22/96

TERMS: DUE UPON RECEIPT

INVOICES PAST 30 DAYS SUBJECT TO 1.5% (18% APR) SERVICE CHARGE.

SOLD TO:

6th District GOP -- 25th House District C/O Colette Hoover 3309 Lassiter Maile Road

Asheboro, North Carolina 27203 910-625-3368

31,390 Voter pieces including graphic design, layout, artwork, typesetting, copywriting half-tones, paper material, printing, voter list & computer selects, computer addressing, sorting, bulking, tabbing, red tagging, delivery to Greensboro Bulk Mail Center..........\$7,403.30

6% NC Sales Tax \$444.20

Postage \$4,708.50 Total \$12,556.00

Please Make Check Payable to:

Advantage Mailing

Advantage Mailing, LLC

225 Hillsborough Street, Suite 255 Raleigh, NC 27603

DATE: 10/22/96

TERMS: DUE UPON RECEIPT

INVOICES PAST 30 DAYS SUBJECT TO 1.5% (18% APR)

SERVICE CHARGE.

SOLD TO:

6th District GOP -- 89 House District C/O Colette Hoover 3309 Lassiter Maile Road

Asheboro, North Carolina 27203 910-625-3368

24,552 Voter pieces including graphic design, layout, artwork, typesetting, copywriting half-tones, paper material, printing, voter list & computer selects, computer addressing, sorting, bulking, tabbing, red tagging, delivery to Greensboro Bulk Mail Center.........\$5,790.57

6% NC Sales Tax \$347.43

Postage \$3.682.80 Total \$9.820.80

Please Make Check Payable to:

Advantage Mailing



October 17, 1996

INVOICE

TO: Sixth District Republican Party c/o Collette Hoover, Treasurer 3309 Lassiter Mill Road Asheboro, NC 27203

FOR: Copy, production and placement of political

radio advertising

\$10,000.00

TERMS: Due and payable on receipt.

THANK YOU

Pd 10/17/96 1#1046